

Before the court is the Recommendation of the Magistrate Judge (Doc. # 17), to which no timely objections have been made. The Magistrate Judge recommends dismissing this case with prejudice pursuant to Federal Rule of Civil Procedure 41(b) because Plaintiff Stanley Newman failed to keep the court apprised of his current address. This is undoubtedly true, but Mr. Newman also never received the order of the court advising him to keep his address updated. It appears from a search of the Alabama Department of Corrections website that, since his last correspondence with the court (Doc. # 11), Mr. Newman has been sentenced for his state-court offense and his custody status is classified as “on-the-way” — whatever that means. His institution is still listed as the Dale Community Corrections facility. While it was Mr. Newman’s responsibility to maintain a

correct address with the court and to prosecute the action he brought, given the circumstances, it is fairer to dismiss his case without prejudice rather than with.

Accordingly, it is ORDERED as follows:

1. The Recommendation of the Magistrate Judge (Doc. # 17) is MODIFIED.

2. This action is DISMISSED without prejudice for Plaintiff's failure to comply with the order of the court and to prosecute this action.

3. All pending motions (Docs. # 4, 5, & 6) are DENIED as moot.

A final judgment will be entered separately.

DONE this 17<sup>th</sup> day of August, 2018.

/s/ W. Keith Watkins  
CHIEF UNITED STATES DISTRICT JUDGE